

AMENDED IN ASSEMBLY JUNE 15, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE MAY 2, 2005

AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 148

Introduced by Senator Scott

(Principal coauthor: Senator Florez)

~~(Coauthor: Assembly Member Liu~~ *Coauthors: Assembly Members
Bass, Liu, and Oropeza)*

February 7, 2005

An act to amend Section 23790 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 148, as amended, Scott. Alcoholic beverages: licensing restrictions.

The Alcoholic Beverage Control Act imposes upon the Department of Alcoholic Beverage Control the responsibility to administer and enforce state laws with respect to alcoholic beverages, including the implementation of alcoholic beverage licensing. Among other things, the act prohibits the issuance of any retail license for the sale of alcoholic beverages for any premises that are located in any territory where the exercise of the rights and privileges conferred by the license is contrary to a valid zoning ordinance of any county or city. The act provides that premises which had been used in the exercise of those rights and privileges at a time prior to the effective date of the zoning ordinance may continue operation under specified conditions.

This bill would, in the case of premises issued a Type 20 or Type 21 off-sale retail license, ~~authorize the Cities of Bakersfield and Pasadena, pursuant to a 4-year pilot project,~~ a county or city to provide for a reasonable amortization period and termination or imposition of conditions on legal nonconforming uses pursuant to a validly enacted zoning ordinance. These provisions would also apply to premises which had been used in the exercise of rights and privileges conferred by the retail license at a time prior to the effective date of the zoning ordinance, as provided. These provisions would become inoperative on January 1, 2010.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 23790 of the Business and Professions
2 Code is amended to read:
3 23790. (a) No retail license shall be issued for any premises
4 which are located in any territory where the exercise of the rights
5 and privileges conferred by the license is contrary to a valid
6 zoning ordinance of any county or city.
7 (b) Premises which had been used in the exercise of those
8 rights and privileges at a time prior to the effective date of the
9 zoning ordinance may continue operation under the following
10 conditions:
11 (1) The premises retain the same type of retail liquor license
12 within a license classification.
13 (2) The licensed premises are operated continuously without
14 substantial change in mode or character of operation.
15 (c) For purposes of this subdivision, a break in continuous
16 operation does not include:
17 (1) A closure for not more than 30 days for purposes of repair,
18 if that repair does not change the nature of the licensed premises
19 and does not increase the square footage of the business used for
20 the sale of alcoholic beverages.
21 (2) The closure for restoration of premises rendered totally or
22 partially inaccessible by an act of God or a toxic accident, if the
23 restoration does not increase the square footage of the business
24 used for the sale of alcoholic beverages.

1 ~~(d) (1) This subdivision establishes a four-year pilot project~~
2 ~~that applies only to the Cities of Bakersfield and Pasadena.~~

3 ~~(2)~~

4 *(d) (1)* Notwithstanding subdivision (b), with respect to any
5 premises issued a Type 20 or Type 21 off-sale retail license, ~~the~~
6 ~~Cities of Bakersfield and Pasadena~~ *a city or county* may provide
7 for a reasonable amortization period and termination or
8 imposition of conditions on legal nonconforming uses pursuant
9 to a validly enacted zoning ordinance.

10 ~~(3)~~

11 *(2)* Notwithstanding paragraph ~~(2) (1)~~, any premises issued a
12 Type 20 or Type 21 off-sale retail license prior to the effective
13 date of the act adding this subdivision shall have up to six
14 months to conform to the conditions imposed by an ordinance
15 described in paragraph ~~(2) (1)~~.

16 ~~(4)~~

17 *(3)* Notwithstanding any other provision of this subdivision to
18 the contrary, nothing in this section shall preclude ~~the Cities of~~
19 ~~Bakersfield and Pasadena~~ *a city, county, or city and county* from
20 entering into a negotiated agreement for a longer amortization
21 period than specified in an ordinance described in paragraph ~~(2)~~
22 *(1)* with a premises issued a Type 20 or Type 21 off-sale retail
23 license.

24 *(4) Nothing in this section shall be interpreted to require the*
25 *department to impose conditions upon Type 20 and Type 21*
26 *license holders.*

27 *(5) This subdivision shall cease to be operative on January 1,*
28 *2010.*